

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RYAN C. HENRY, individually and on
behalf of other similarly situated
employees,

CIVIL CASE NO. 04-40346

Plaintiff,

v.

QUICKEN LOANS INC., a/k/a ROCK
FINANCIAL, a Michigan corporation,
and DANIEL B. GILBERT, personally
and individually,

HONORABLE PAUL V.
GADOLA
U.S. DISTRICT COURT

Defendants.

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**ORDER ACCEPTING AND ADOPTING THE REPORT AND
RECOMMENDATION**

This is a potential collective action for paid overtime, under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.* Before the Court is Plaintiff's Motion for Conditional Class Certification and Judicial Notice and Motion to Compel, and the Report and Recommendation of United States Magistrate Judge Wallace Capel, Jr. The Magistrate Judge issued his Report and Recommendation on August 18, 2006, recommending that Plaintiff's motion be granted in part and denied in part. Defendants filed objections to the Report and Recommendation on September 5, 2006, and Plaintiff responded to the objections on September 19, 2006.

In their objections, Defendants first object to the recommendation to grant Plaintiff's motion to compel the production of names and addresses of current and past loan consultants. Defendants argue that this information should be provided to a third-party in order to facilitate notice, and not to Plaintiff. Plaintiff argues that this information should be produced to them, because it is proper discovery material. The Court finds Plaintiff's argument compelling, and accordingly, overrules Defendants' objections on this issue.

Also in their objections, Defendants request that Magistrate Judge Capel issue a revised or supplemental Report and Recommendation, addressing various questions concerning the specific language of the notice and the number of mailed notices permitted that Defendants believe need further clarity and explanation. Pursuant to this request, the Court consulted with Magistrate Judge Capel on the appropriate manner to proceed in these matters. Because the Court finds that the reasoning and conclusions of Magistrate Judge Capel to be sound, the Court will therefore accept and adopt the Report and Recommendation in its entirety, and then remand the issues raised by Defendants concerning the specific language of the notice and the number of mailed notices permitted to Magistrate Judge Capel for a determination.

Accordingly, after having reviewed the Report and Recommendation, Plaintiff's motion, and the applicable portions of the record, **IT IS HEREBY ORDERED** that

the Report and Recommendation [docket entry 278] is **ACCEPTED** and **ADOPTED** in its entirety as the opinion of this Court, and Plaintiff's motion [docket entry 213] is **GRANTED IN PART** and **DENIED IN PART**. In particular:

(1) Plaintiff's motion for conditional class certification is **GRANTED**.

(2) Plaintiff's request for equitable tolling is **DENIED**.

(3) Plaintiff's request that the Court compel the production of names and addresses of current and past loan consultants is **GRANTED**.

(4) The Court will facilitate judicial notice to potential class members to inform them of the action and to give them an opportunity to participate by opting in. In addition, corrective notices and notice of withdrawal forms should be sent out to all plaintiffs who have opted in the litigation. The issues raised by Defendants in their objections concerning the specific language of the notice and the number of mailed notices permitted are remanded to the Magistrate Judge for a determination.

SO ORDERED.

Dated: September 28, 2006

s/Paul V. Gadola
HONORABLE PAUL V. GADOLA
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that on September 28, 2006, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Kathleen L. Bogas; Lawrence G. Campbell; Charlotte Croson; Robert P. Davis; Sheryl A. Laughren; Paul J. Lukas; Donald H. Nichols; James B. Perry; Kimberly J. Ruppel; Rachhana T. Srey, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: Michele R. Fisher.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
(810) 341-7845